

(d) A proposed action or alternative(s) may include adaptive management strategies allowing for adjustment of the action during implementation. If the adjustments to an action are clearly articulated and pre-specified in the description of the alternative and fully analyzed, then the action may be adjusted during implementation without the need for further analysis. Adaptive management includes a monitoring component, approved adaptive actions that may be taken, and environmental effects analysis for the adaptive actions approved.

(e) The level of detail and depth of impact analysis should normally be limited to the minimum needed to determine whether there would be significant environmental effects.

(f) Bureaus may choose to provide additional detail and depth of analysis as appropriate in those environmental assessments prepared under paragraph 46.300(b).

(g) An environmental assessment must contain objective analyses that support conclusions concerning environmental impacts.

§ 46.315 How to format an environmental assessment.

(a) An environmental assessment may be prepared in any format useful to facilitate planning, decision-making, and appropriate public participation.

(b) An environmental assessment may be accompanied by any other planning or decision-making document. The portion of the document that analyzes the environmental impacts of the proposal and alternatives must be clearly and separately identified and not spread throughout or interwoven into other sections of the document.

§ 46.320 Adopting environmental assessments prepared by another agency, entity, or person.

(a) A Responsible Official may adopt an environmental assessment prepared by another agency, entity, or person, including an applicant, if the Responsible Official:

(1) Independently reviews the environmental assessment; and

(2) Finds that the environmental assessment complies with this subpart and relevant provisions of the CEQ Regulations and with other program requirements.

(b) When appropriate, the Responsible Official may augment the environmental assessment to be consistent with the bureau's proposed action.

(c) In adopting or augmenting the environmental assessment, the Responsible Official will cite the original environmental assessment.

(d) The Responsible Official must ensure that its bureau's public involvement requirements have been met before it adopts another agency's environmental assessment.

§ 46.325 Conclusion of the environmental assessment process.

Upon review of the environmental assessment by the Responsible Official, the environmental assessment process concludes with one of the following:

(1) A notice of intent to prepare an environmental impact statement;

(2) A finding of no significant impact; or

(3) A result that no further action is taken on the proposal.

Subpart E—Environmental Impact Statements

§ 46.400 Timing of environmental impact statement development.

The bureau must prepare an environmental impact statement for each proposed major Federal action significantly affecting the quality of the human environment before making a decision on whether to proceed with the proposed action.

§ 46.405 Remaining within page limits.

To the extent possible, bureaus should use techniques such as incorporation of referenced documents into NEPA analysis (46.135) and tiering (46.140) in an effort to remain within the normal page limits stated in 40 CFR 1502.7.

§ 46.415

§ 46.415 Environmental impact statement content, alternatives, circulation and filing requirements.

The Responsible Official may use any environmental impact statement format and design as long as the statement is in accordance with 40 CFR 1502.10.

(a) *Contents.* The environmental impact statement shall disclose:

(1) A statement of the purpose and need for the action;

(2) A description of the proposed action;

(3) The environmental impact of the proposed action;

(4) A brief description of the affected environment;

(5) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(6) Alternatives to the proposed action;

(7) The relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity;

(8) Any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented; and

(9) The process used to coordinate with other Federal agencies, State, tribal and local governments, and persons or organizations who may be interested or affected, and the results thereof.

(b) *Alternatives.* The environmental impact statement shall document the examination of the range of alternatives (paragraph 46.420(c)). The range of alternatives includes those reasonable alternatives (paragraph 46.420(b)) that meet the purpose and need of the proposed action, and address one or more significant issues (40 CFR 1501.7(a)(2-3)) related to the proposed action. Since an alternative may be developed to address more than one significant issue, no specific number of alternatives is required or prescribed. In addition to the requirements in 40 CFR 1502.14, the Responsible Official has an option to use the following procedures to develop and analyze alternatives.

(1) The analysis of the effects of the no-action alternative may be documented by contrasting the current condition and expected future condition

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should the proposed action not be undertaken with the impacts of the proposed action and any reasonable alternatives.

(2) The Responsible Official may collaborate with those persons or organization that may be interested or affected to modify a proposed action and alternative(s) under consideration prior to issuing a draft environmental impact statement. In such cases the Responsible Official may consider these modifications as alternatives considered. Before engaging in any collaborative processes, the Responsible Official must consider the Federal Advisory Committee Act (FACA) implications of such processes.

(3) A proposed action or alternative(s) may include adaptive management strategies allowing for adjustment of the action during implementation. If the adjustments to an action are clearly articulated and pre-specified in the description of the alternative and fully analyzed, then the action may be adjusted during implementation without the need for further analysis. Adaptive management includes a monitoring component, approved adaptive actions that may be taken, and environmental effects analysis for the adaptive actions approved.

(c) *Circulating and filing draft and final environmental impact statements.* (1) The draft and final environmental impact statements shall be filed with the Environmental Protection Agency's Office of Federal Activities in Washington, DC (40 CFR 1506.9).

(2) Requirements at 40 CFR 1506.9 "Filing requirements," 40 CFR 1506.10 "Timing of agency action," 40 CFR 1502.9 "Draft, final, and supplemental statements," and 40 CFR 1502.19 "Circulation of the environmental impact statement" shall only apply to draft, final, and supplemental environmental impact statements that are filed with EPA.

§ 46.420 Terms used in an environmental impact statement.

The following terms are commonly used to describe concepts or activities in an environmental impact statement:

(a) *Statement of purpose and need.* In accordance with 40 CFR 1502.13, the statement of purpose and need briefly

indicates the underlying purpose and need to which the bureau is responding.

(1) In some instances it may be appropriate for the bureau to describe its “purpose” and its “need” as distinct aspects. The “need” for the action may be described as the underlying problem or opportunity to which the agency is responding with the action. The “purpose” may refer to the goal or objective that the bureau is trying to achieve, and should be stated to the extent possible, in terms of desired outcomes.

(2) When a bureau is asked to approve an application or permit, the bureau should consider the needs and goals of the parties involved in the application or permit as well as the public interest. The needs and goals of the parties involved in the application or permit may be described as background information. However, this description must not be confused with the bureau’s purpose and need for action. It is the bureau’s purpose and need for action that will determine the range of alternatives and provide a basis for the selection of an alternative in a decision.

(b) *Reasonable alternatives.* In addition to the requirements of 40 CFR 1502.14, this term includes alternatives that are technically and economically practical or feasible and meet the purpose and need of the proposed action.

(c) *Range of alternatives.* This term includes all reasonable alternatives, or when there are potentially a very large number of alternatives then a reasonable number of examples covering the full spectrum of reasonable alternatives, each of which must be rigorously explored and objectively evaluated, as well as those other alternatives that are eliminated from detailed study with a brief discussion of the reasons for eliminating them. 40 CFR 1502.14. The Responsible Official must not consider alternatives beyond the range of alternatives discussed in the relevant environmental documents, but may select elements from several alternatives discussed. Moreover, the Responsible Official must, in fact, consider all the alternatives discussed in an environmental impact statement. 40 CFR 1505.1 (e).

(d) *Preferred alternative.* This term refers to the alternative which the bu-

reau believes would best accomplish the purpose and need of the proposed action while fulfilling its statutory mission and responsibilities, giving consideration to economic, environmental, technical, and other factors. It may or may not be the same as the bureau’s proposed action, the non-Federal entity’s proposal or the environmentally preferable alternative.

§ 46.425 Identification of the preferred alternative in an environmental impact statement.

(a) Unless another law prohibits the expression of a preference, the draft environmental impact statement should identify the bureau’s preferred alternative or alternatives, if one or more exists.

(b) Unless another law prohibits the expression of a preference, the final environmental impact statement must identify the bureau’s preferred alternative.

§ 46.430 Environmental review and consultation requirements.

(a) Any environmental impact statement that also addresses other environmental review and consultation requirements must clearly identify and discuss all the associated analyses, studies, or surveys relied upon by the bureau as a part of that review and consultation. The environmental impact statement must include these associated analyses, studies, or surveys, either in the text or in an appendix or indicate where such analysis, studies or surveys may be readily accessed by the public.

(b) The draft environmental impact statement must list all Federal permits, licenses, or approvals that must be obtained to implement the proposal. The environmental analyses for these related permits, licenses, and approvals should be integrated and performed concurrently. The bureau, however, need not unreasonably delay its NEPA analysis in order to integrate another agency’s analyses. The bureau may complete the NEPA analysis before all approvals by other agencies are in place.

§ 46.435

§ 46.435 Inviting comments.

(a) A bureau must seek comment from the public as part of the Notice of Intent to prepare an environmental impact statement and notice of availability for a draft environmental impact statement;

(b) In addition to paragraph (a) of this section, a bureau must request comments from:

(1) Federal agencies;

(2) State agencies through procedures established by the Governor of such state under EO 12372;

(3) Local governments and agencies, to the extent that the proposed action affects their jurisdictions; and

(4) The applicant, if any, and persons or organizations who may be interested or affected.

(c) The bureau must request comments from the tribal governments, unless the tribal governments have designated an alternate review process, when the proposed action may affect the environment of either:

(1) Indian trust or restricted land; or

(2) Other Indian trust resources, trust assets, or tribal health and safety.

(d) A bureau does not need to delay preparation and issuance of a final environmental impact statement when

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any Federal, State, and local agencies, or tribal governments from which comments must be obtained or requested do not comment within the prescribed time period.

§ 46.440 Eliminating duplication with State and local procedures.

A bureau must incorporate in its directives provisions allowing a State agency to jointly prepare an environmental impact statement, to the extent provided in 40 CFR 1506.2.

§ 46.445 Preparing a legislative environmental impact statement.

When required under 40 CFR 1506.8, the Department must ensure that a legislative environmental impact statement is included as a part of the formal transmittal of a legislative proposal to the Congress.

§ 46.450 Identifying the environmentally preferable alternative(s).

In accordance with the requirements of 40 CFR 1505.2, a bureau must identify the environmentally preferable alternative(s) in the record of decision. It is not necessary that the environmentally preferable alternative(s) be selected in the record of decision.